

AMENDING CHAPTER 46 OF THE DANE COUNTY CODE OF ORDINANCES,  
REGARDING REGULATION OF PUBLIC FACILITIES AND MANUFACTURED HOME COMMUNITIES

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Section 46.03(5) is amended to read as follows:

(5) *Food* shall have the meaning given in chapter HFS-DHS 196 of the Wis. Admin. Code.

ARTICLE 3. Section 46.03(15) is amended to read as follows:

(15) *Public swimming pool* has the meaning set forth in Wis. Admin. Code see. HSS-171.03(13)COMM 90.93(23).

ARTICLE 4. Section 46.03(16) is amended to read as follows:

(16) *Restaurant* shall have the meaning given in chapter HSS-DHS196 of the Wis. Admin. Code.

ARTICLE 5. Section 46.04(4) is amended to read as follows:

(4) Chapters COMM 81-87, COMM 91, HFS-171, COMM 90, HFS-DHS175, ADM 650, HFS-DHS 178, HFS-DHS 195, HFS-DHS 196, HFS-DHS 197, HFS-DHS 198, ATCP 75, NR 812, NR 813, and NR 845 of the Wisconsin Administrative Code are hereby adopted by reference and made a part of this chapter as if fully set forth herein.

ARTICLE 6. Section 46.21 is amended to read as follows:

**46.21 FACILITIES REGULATED.** (1) Restaurants, public swimming pools and water attractions, beaches, campgrounds, hotels, motels, recreational and educational camps, tourist rooming houses, bed and breakfasts; retail food establishments, manufactured home communities; counter-top freezers; bakeries and confectioneries; wells; servicing of septic tanks, seepage pits, grease traps or privies; and vending machines shall be constructed, operated, performed and maintained in accordance with chapters HSS-DHS 195, HSS-DHS 196, HSS-DHS 197, HSS-DHS 198, HSS-171, COMDHS 172, HSS-DHS 175, HSS-DHS 178, AG 32, AG 35, AG 39, ATCP 75, COMM 90, COMM 26, NR 812, NR 813 and NR 845 of the Wis. Admin. Code, as appropriate. Each facility identified herein shall be considered a regulated facility under this chapter.

(2) The department shall enforce the above. In doing so, the board is authorized to adopt reasonable regulations from time to time pursuant to s. 140.09(9), Wis. Stats., which shall have the force of ordinance. Regulations so adopted shall be referred to the county board for consideration of incorporation in this ordinance as soon as practicable. Facilities regulated shall be inspected at least once every license year or as required by the applicable provisions of the Wisconsin Administrative Code, by PHMDC for compliance with the applicable Wisconsin Administrative Code and/or County Ordinance. Violations shall be noted and compliance dates set. A reinspection shall be made for all critical violations. Repeat violations shall be grounds for fines, legal action or suspension of permit. The board is authorized to adopt reasonable regulations from time to time pursuant to s. 251.135, Wis. Stats., which shall have the force of ordinance. Regulations so adopted shall be referred to the county board for incorporation into this ordinance as soon as practicable.

~~(3) Notwithstanding the exclusion of retail food establishments having less than \$10,000 from state licensing provisions, the same shall be considered to be regulated facilities under this chapter and shall be subject to the requirements hereof.~~

~~(4)(3) Notwithstanding the exclusion of public beaches from the definition of public bathing places in HSS-171 of the Wisconsin Administrative Code, the same shall be considered to be regulated facilities under this chapter and shall be subject to the requirements hereof.~~

ARTICLE 7. Section 46.33(1) & (2) are amended to read as follows:

(1) *Introduction.* Dane County does hereby adopt the following regulations governing the inspection, maintenance and operation of vending machines, restaurants, public bathing places, swimming pools and water attractions, beaches, mobile home parks, manufactured home communities, campgrounds, hotels, motels, recreational and

educational camps, tourist rooming houses, bed and breakfasts, retail food establishments, ~~counter top freezers, bakeries and confectioneries~~; construction of wells; servicing of septic tanks, seepage pits, grease traps or privies; and the issuance, suspension and revocation of permits to operators of such facilities or persons engaging in such activities.

**(2) Types of facilities and activities regulated.** All vending machines, restaurants, ~~public bathing places, swimming pools and water attractions, beaches, mobile home parks, manufactured home communities~~, campgrounds, hotels, motels, recreational and educational camps, tourist rooming houses, bed and breakfasts, retail food establishments, ~~counter top freezers, bakeries and confectioneries~~, construction of wells and the servicing of septic tanks, seepage pits, grease traps or privies, subject to the provisions of the Wisconsin Administrative Code, shall also be governed by this section. Hereafter, in this section, such facilities are referred to as regulated facilities and regulated activities, respectively.

ARTICLE 8. Section 46.33(5) is amended to read as follows:

**(5) Revocations.** Whenever any regulated facility or regulated activity fails to meet the standards established by chapters ~~HSSDHS 195, HSSDHS 196, HSSDHS 197, HSSDHS 198, HSS 174, COMM 26, COMM 90, HSSDHS 172, HSSDHS 175, HSSDHS 177, HSSDHS 178, AG 32, AG 35, AG 39, ATCP 75, NR 4812, NR 113 and NR 145~~ of the Wisconsin Administrative Code or any provision of the Dane County Ordinances, the health officer is authorized to seek revocation of the operator's permit. In addition, the health officer is authorized to initiate legal action against the operator, in conjunction with the corporation counsel's office.

ARTICLE 9. Section 46.34(6)(f) is amended to read as follows:

**(f) Notwithstanding this subsection, there shall be no county fee for temporary restaurant operations, as defined in s. 254.61(5)(b), Wis. Stats., by churches; religious, fraternal, youth or patriotic organizations; service clubs and civic organizations. Notwithstanding this subsection, there shall be no county fee for temporary food establishment operations, as defined in s. 254.61(5)(b), Wis. Stats., by churches, religious, fraternal, youth, or patriotic organizations; service clubs and civic organizations that occasionally prepare, serve, or sell meals to transients or to the general public. Occasional means not more than 3 days during any 12 month period.**

ARTICLE 10. Sections 46.34(11) & (12) are created to read as follows:

**(11) Fees for operating without a license.** Any operator of an enterprise requiring a food and drink license; a hotel, motel, tourist rooming house, bed and breakfast establishment license; a public swimming pool license; or recreational, educational camp or campground license; a tattooing and body piercing license, found to be operating without a license, shall pay to the department a forfeiture of \$250.00, in addition to applicable fees.

**(12) Fee for operating without a Wisconsin certified food manager.** The department shall charge the operator of a restaurant a forfeiture of \$150.00 for operating without a Wisconsin certified food manager.

ARTICLE 11. Section 46.56 (12) & (15) are amended to read as follows:

**(12) A supply of potable water meeting the standards of the department of natural resources, including ss. NR 109 and NR 4812, shall be provided at all beaches. The water shall be obtained from a municipal water supply if it is available. At least one drinking water supply outlet for every 1,000 patrons or fraction thereof shall be provided. The supply outlet shall be protected against backflow and backsiphonage.**

**(15) When a bathhouse is provided, construction shall be in accordance with chapters ~~LHR 50 to 64~~ COMM 60 to 66 and ~~HSS 174~~ COMM 90, Wisconsin Administrative Code.**

ARTICLE 12. Section 46.60 is amended to read as follows:

**46.60 AUTHORITY; PURPOSE.** Sections 46.60 through 46.71, inclusive, are created under the authority of section ~~440.09~~ 251.135, Wis. Stats., for the purpose of promoting the public health.

ARTICLE 13. Section 46.61(1) is amended to read as follows:

**46.61 MOBILE HOME PARK MANUFACTURED HOME COMMUNITY PERMITS.** (1) Before a ~~mobile home park~~ manufactured home community is opened for public use, the operator shall obtain a permit from the department by application made upon a form furnished by the department.

ARTICLE 14. Section 46.63 is amended to read as follows:

**46.63 LOCATION.** (1) Every ~~mobile home park~~ manufactured home community and ~~mobile home~~ manufactured home within the ~~park community~~ shall be located on a well-drained area, and shall be properly graded to prevent the accumulation of storm or other waters.

(2) No ~~mobile home park~~ manufactured home community or ~~mobile home~~ manufactured home within the ~~park community~~ may be located in any area that is situated so that drainage of contaminated liquids or solids can be deposited on its location.

ARTICLE 15. Section 46.64(4) is amended to read as follows:

(4) (a) ~~Mobile home parks~~ Manufactured home communities which before February 1, 1986 either complied with existing codes or were in existence prior to 1962 shall be allowed to operate without being in compliance with subs. (1), (2) and (3) unless the department determines that non-compliance endangers the health or safety of occupants.

(b) Any ~~mobile home park~~ manufactured home community expansion shall be in accordance with subs. (1), (2) and (3) and other applicable parts of this chapter.

(c) Any modification of a ~~mobile home park~~ manufactured home community which existed prior to 1962 relating to the size of basic units, the separation between basic units, or the placement of basic units on a lot in relationship to streets and other buildings shall be permitted by the department unless the department determines that the modification endangers the health or safety of occupants. Any modification of a ~~mobile home park~~ manufactured home community which did not exist prior to 1962 shall be in accordance with subs. (1), (2) and (3) and other applicable parts of this chapter.

ARTICLE 16. Section 46.65(1) is amended to read as follows:

**46.65 WATER SUPPLY.** (1) When a public water supply is available to the ~~mobile home park~~ manufactured home community, connection and use are required.

ARTICLE 17. Section 46.66(1) is amended to read as follows:

**46.66 SEWAGE DISPOSAL.** (1) When public sewage facilities are available to the ~~mobile home park~~ manufactured home community, connection and use are required.

ARTICLE 18. Section 46.69 is amended to read as follows:

**46.69 MANAGEMENT.** (1) The operator or a designee in charge of the ~~mobile home park~~ manufactured home community in the absence of the operator shall, during reasonable hours, be available in the ~~park community~~ or in close proximity to the ~~park community~~.

(2) The operator shall keep a register of all owners of ~~mobile~~ manufactured homes located in the ~~mobile home park~~ manufactured home community, and shall permit the department to inspect the register at all reasonable times and upon reasonable notice.

(3) The operator shall maintain the ~~mobile home park~~ manufactured home community in a clean, orderly and sanitary condition at all times.

(4) The operator shall cooperate with health officers in all cases of persons or animals infected or suspected of being infected with any reportable communicable disease under s. HSS 145.03(2) of the Wisconsin Administrative Code.

ARTICLE 19. Section 46.70 is amended to read as follows:

**46.70 DUTIES OF OCCUPANTS.** All owners and other occupants of ~~mobile homes~~ manufactured homes in a ~~mobile home park~~ manufactured home community shall:

(1) Register with the operator; and

(2) Maintain their site in a clean, orderly and sanitary condition at all times.

ARTICLE 20. Section 46.71 is amended to read as follows:

**46.71 ENFORCEMENT.** (1) Any employee of the department, upon presenting proper identification, shall be permitted to enter any ~~mobile home park~~ manufactured home community at any reasonable time for the purpose of inspecting the ~~mobile home park~~ manufactured home community to determine compliance with this chapter. The department's authorized employee or agent shall be permitted to examine the records of the ~~mobile home park~~ manufactured home community, including ~~mobile home park~~ manufactured home community registration records.

**(2) (a)** If upon inspection of a ~~mobile home park~~ manufactured home community the authorized employee or agent of the department finds that the ~~mobile home park~~ manufactured home community is not planned, operated or equipped as required by this chapter, the employee or agent shall, except as provided under par. (b), notify the operator in writing and shall specify the changes required to make the ~~mobile home park~~ manufactured home community conform to the standards established in this chapter and the time period within which compliance shall take place. If the order to correct violations is not carried out by the expiration of the time period stipulated in the order, or any extension of time granted for compliance, the department may issue an order suspending or revoking the permit to operate the ~~mobile home park~~ manufactured home community. The suspension or revocation order shall take effect 15 days after the date of issuance unless a request for a hearing has been received under sub. (3).

**(b)** Where there is reasonable cause to believe that any construction, sanitary condition, operation or method of operation of the premises of a ~~mobile home park~~ manufactured home community or of equipment used on the premises creates an immediate danger to health, the department may without advanced written notice, issue a temporary order to remove the immediate danger to health. That order shall take effect on delivery to the operator or other person in charge of the ~~mobile home park~~ manufactured home community. The order shall be limited to prohibiting the continued operation or method of operation of specific equipment, requiring the premises to cease other operations or methods of operations, or a combination of these, except that if a more limited order will not remove the immediate danger to health the order may direct that all operations authorized by the permit shall cease. If, before scheduled expiration of the temporary order, the department determines that an immediate danger to health does in fact exist, the temporary order shall remain in effect. The department shall then schedule and hold a hearing under s. 46.17 unless the immediate danger to health is removed or the order is not contested and the operator and the department mutually agree that no purpose would be served by a hearing. The temporary order is effective for 14 days and may be extended for another 14 days to permit the department to complete its examination. The order expires at the end of the 14-day or 28-day period unless it is terminated by the department by notice to the operator within that period, or is kept in effect beyond that period, pending a hearing, by department notification to the operator. The hearing is to be held no later than 15 days after the notice is served on the operator unless the department and the operator agree on a later date, and the hearing officer or body must issue a final decision on the matter within 10 days after the hearing.

**(3)** Any operator aggrieved by an order of the department under this section may request a hearing under this subsection to challenge the order. A request for a hearing under this subsection or for an appeal thereof shall be received by the director of environmental health within 15 days after issuance of the order. Procedures for the hearing shall be as set forth in section 46.17. After the hearing, the presiding officer or body shall affirm, set aside or modify the order.

*[EXPLANATION: This amendment adds a provision authorizing a late fee for licensees who do not renew licenses on time, and updates citations and terminology to conform to state law.]*

Submitted by Supervisors Miles and Matano, November 4, 2010. Fiscal and Policy Notes not required.  
Referred to HEALTH & HUMAN NEEDS, ZONING & LAND REGULATION and BOARD OF HEALTH.